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Saad John P & Son

AOC - 11/27/89

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IV

IN THE MATTER OF:

The Saad Site
3655 Trousdale Road
Nashville, TN

John P. Saad, Jr.
Richard S. Saad
Leasing Management Systems, Inc.
Kathy Saad
Ellis J. Saad
John P. Saad & Sons, Inc.

Respondents

)
)
) PROCEEDING UNDER SECTION 106(a)
) OF THE COMPREHENSIVE
) ENVIRONMENTAL RESPONSE,
) COMPENSATION, AND LIABILITY
) ACT OF 1980,
) 42 U.S.C. § 9606(a).

EPA Docket No.: 90-09-CADMINISTRATIVE ORDERI. JURISDICTION

The following Order is issued on this date to the above Respondents, pursuant to Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. § 9606(a), as amended by the Superfund Amendments and Reauthorization Act of 1986 (P.L. 99-499). This Order is issued under authority delegated to the Administrator of the United States Environmental Protection Agency (EPA) by Exec. Order No. 12580 (January 23, 1987), 52 Fed. Reg. 2923 (January 29, 1987), and further delegated to the Regional Administrator of Region IV, EPA, and redelegated to the Director, Waste Management Division. Notice of the issuance of this Order has been given to, and it is issued in conjunction with, the State of Tennessee.

EPA has determined that there may be an imminent and substantial endangerment to the public health or welfare or the environment due to the release or threat of release of hazardous substances as defined in Section 101(14) of CERCLA, as amended, 42 U.S.C. § 9601(14), from the following location:

The Saad Site
3655 Trousdale Road
Nashville, Tennessee,

This Order directs you to undertake the specified actions to protect the public and the environment from this endangerment.

II. FINDINGS OF FACT

For the purposes of this Order, EPA finds that:

- A. John P. Saad & Sons, Inc., operated a waste oil reclamation facility at the site from at least 1971 until at least 1983.
- B. Richard S. Saad is listed as the agent for service of process for John P. Saad & Sons, Inc.
- C. John P. Saad, Richard S. Saad and Ellis Saad operated and managed John P. Saad & Sons, Inc.
- D. Kathy and Ellis Saad currently own the property at 3655 Trousdale Road.
- E. Leasing Management Systems, Inc., owned the above property from October, 1981, until August, 1988. It acquired the site from John P. Saad & Sons, Inc.
- F. The site is located in the middle of a commercial/light industrial area of Nashville, Tennessee. Although there is a fence around part of the property, it does not fully enclose it, and the gate is usually open. Access is not very limited. There are four open tanks full of an oily substance, and numerous drums that are exposed on the surface.
- G. There have been releases from the site that have been documented by sampling. Contaminants from the site have been found in the groundwater and springs in the Grassmere complex. Contaminants have also been found in monitoring wells on adjacent properties.
- H. Results of EPA sampling have indicated high levels of waste oil, herbicides, PCB's, methylene chloride and other solvents, and various metals at the site, in both the groundwater, in the soil, and in the waste oil still present on the site. Methylene chloride, which is a carcinogen, has been found up to 220 ppm in the soil. The site has a very large sinkhole covering most of the ground area, which allows all contaminants a direct route into the groundwater.

III. CONCLUSIONS OF LAW

- A. The Site is a facility as defined in Section 101(9) of CERCLA, as amended, 42 U.S.C. § 9601(9).

- B. Respondent is a "person" as defined in Section 101(20) of CERCLA, as amended, 42 U.S.C. § 9601(20).
- C. Methylene chloride, ethyl benzene, and xylene are hazardous substances as defined in Section 101(14) of CERCLA, as amended, 42 U.S.C. § 9601(14).
- D. The past, present and potential migration of hazardous substances from the Site constitutes an actual or threatened release as defined in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

IV. DETERMINATION

Based on the foregoing Findings of Fact and Conclusions of Law, and the entire record of this proceeding, the Director of the Waste Management Division has determined that:

- A. The release or threat of release of hazardous substances at the Site may present an imminent and substantial endangerment to the public health or welfare or the environment.
- B. In order to protect the public health or welfare or the environment, it is necessary that action be taken to abate the release or threat of release of hazardous substances from the facility into the environment.
- C. The actions required in this Order are consistent with the National Contingency Plan, 40 C.F.R. Part 300 et seq.

V. ORDER

Based on the foregoing Findings of Fact, Conclusions of Law and Determinations, Respondent is hereby ordered and directed to undertake the following activities, pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a):

- A. Respondent shall initiate no later than fifteen (15) working days after receipt of this Order, and shall complete the work within 120 days after receipt of this Order, the following measures which shall be undertaken at the direction of EPA through its On-Scene Coordinator (OSC):
 - 1. Excavate and stockpile all contaminated soil on the site to a cleanup level specified by the OSC;
 - 2. Excavate all buried drums; sample all tanks;
 - 3. Sample excavated area to determine that excavation is complete based upon the OSC-determined cleanup goals; and,

4. Arrange for the transportation and disposal of the contaminated soil, drummed material, and material in the tanks at an approved hazardous waste treatment, storage, or disposal facility. Written notice shall be given to EPA prior to all phases of this disposal, including the name and address of the facility or facilities to which the hazardous substances are transported. The facility must be in compliance with EPA's Offsite Policy.

- B. All activities undertaken by Respondent pursuant to this Order shall be performed in accordance with all applicable, relevant and appropriate federal, state, and local laws.
- C. Upon request by EPA, Respondent shall provide EPA with split samples of any samples collected in accordance with the requirements of this Order.
- D. Respondent shall provide access to the Site to EPA and its employees, contractors, and consultants for the purposes of overseeing the implementation of this Order.
- E. All activities performed pursuant to this Order shall be under the direction and supervision of a qualified professional engineer or other qualified professional with expertise and experience in hazardous waste site cleanup. Respondent shall notify EPA as to the identity of such engineer or other professional and of any contractors and subcontractors to be used in the implementation of this Order in advance of their work at the Site. EPA reserves the right to disapprove of any engineer or other professional selected by the Respondent.
- F. Respondent shall use quality assurance, quality control, chain-of-custody, and manifest procedures in accordance with the applicable EPA guidance throughout all activities. Respondent shall consult with EPA in planning, sample collection, analysis, and transportation and disposal of the hazardous substances at the Site. Respondent shall provide a quality control report to EPA which certifies that all activities have been performed as approved by EPA.
- G. Respondent shall preserve all records developed pursuant to the implementation of this Order for a period of at least six (6) years following completion of all work conducted by Respondent pursuant to this Order.
- H. Notwithstanding compliance with the terms of this Order, Respondent may be required to take further actions as necessary to abate the endangerment posed by conditions at the Site.

- I. In the event that the OSC determines that activities implemented by Respondent are not in compliance with this Order or that any other circumstances or activities are creating an imminent and substantial endangerment to the public health or welfare or the environment, the OSC may order Respondent to halt further implementation of this Order for such period of time as is necessary to abate the endangerment. In addition, EPA may carry out all activities pursuant to this Order and such other activities as it deems necessary and consistent with the NCP.

VI. RELATIONSHIP BETWEEN THE UNITED STATES AND RESPONDENT

- A. Neither the United States nor any agency thereof shall be liable for any injuries or damages to persons or property resulting from acts or omissions of Respondent, his employees, agents, servants, trustees, successors, or assigns, or of any persons, including but not limited to firms, corporations, contractors, or consultants, engaged in carrying out activities pursuant to this Order, nor shall the United States or any agency thereof be held out as a party to any activities undertaken pursuant to this Order.
- B. All submittals and notifications to EPA pursuant to this Order shall be made to: Kelly S. McCarty, On-Scene Coordinator, United States Environmental Protection Agency, 345 Courtland Street, N.E., Atlanta, Georgia 30365.
- C. This Order shall apply to and be binding upon the parties to this action, their agents, employees, successors, assigns, and contractors.
- D. Nothing herein shall constitute or be construed as a satisfaction or release from liability for Respondent, his agents, contractors, lessees, successors, or assigns, for any conditions or claims arising as a result of past operations or ownership of the site.
- E. Nothing herein shall constitute or be construed as special notice pursuant to Section 122(e) of CERCLA, 42 U.S.C. § 9622(e), and this Order does not invoke the negotiation moratoria set forth in that subsection.

VII. EFFECTIVE DATE

This Order is effective upon receipt. All times for performance of response activities shall be calculated from that date.

VIII. NOTIFICATION OF INTENTION

With respect to the actions required above, you must notify EPA in writing within ten (10) calendar days of receipt of this Order of whether you intend to comply with the terms of this Order. If you do not notify EPA in writing within the specified time period, EPA may thereafter commence the response action under Section 104(a) of CERCLA, 42 U.S.C. § 9604(a), or take action against you under Section 106 of CERCLA, 42 U.S.C. § 9606.

IX. OPPORTUNITY TO CONFER

You may, within five (5) calendar days after receipt of this Order, request in writing a conference to discuss this Order and its applicability to you. At any conference held pursuant to your request, you may appear in person, and you may be represented by an attorney or other representative for the purpose of presenting any objections, defenses, or contentions regarding this Order. If you desire such a conference, please contact Ruben Bussey, Assistant Regional Counsel, United States Environmental Protection Agency, Region IV, Office of Regional Counsel, 345 Courtland Street, Atlanta, Georgia, 30365.

X. PENALTIES FOR NON-COMPLIANCE

Violation of this Order through failure to comply with any provision herein or otherwise may be enforceable pursuant to Sections 106(b) and 113(b) of CERCLA, 42 U.S.C. §§ 9606(b) and 9613(b). Failure to comply may also subject Respondent to civil penalties of not more than \$25,000 per day and punitive damages in an amount three times the costs incurred by the United States as a result of such failure, as provided in Sections 106(b) and 107(c)(3) of CERCLA, 42 U.S.C. §§ 9606(b) and 9607(c)(3). Nothing herein shall preclude EPA from taking such other actions as may be necessary to protect the public health and welfare or the environment and recovering the costs thereof.

The United States Environmental Protection Agency:

BY: /s/ Don Guinyard
/s/ Acting
Patrick M. Tobin, Director
Waste Management Division
U.S. EPA - Region IV
345 Courtland Street, N.E.
Atlanta, Georgia 30365

Dated this 29th day of November, 1989.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IV

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) EPA Docket No.: 90-09-C
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ADMINISTRATIVE ORDER

I. JURISDICTION

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IV. DETERMINATION

Based on the foregoing Findings of Fact and Conclusions of Law, and the entire record of this proceeding, the Director of the Waste Management Division has determined that:

- A. The release or threat of release of hazardous substances at the Site may present an imminent and substantial endangerment to the public health or welfare or the environment.
- B. In order to protect the public health or welfare or the environment, it is necessary that action be taken to abate the release or threat of release of hazardous substances from the facility into the environment.
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The United States Environmental Protection Agency:

BY: /s/ Don Guinyard
/s/ Acting
Patrick M. Tobin, Director
Waste Management Division
U.S. EPA - Region IV
345 Courtland Street, N.E.
Atlanta, Georgia 30365

Dated this 29th day of November, 1989.